

**Executive Summary – Enforcement Matter – Case No. 51489**

**City of Donna**

**RN102080751**

**Docket No. 2015-1657-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Donna WWTP, located immediately west of Farm-to-Market Road 493 and approximately 1.5 miles south of U.S. Highway 83 (Business Route), Hidalgo County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 26, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,600

**Amount Deferred for Expedited Settlement:** \$2,520

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$10,080

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 21, 2015

**Date(s) of NOE(s):** October 19, 2015

**Executive Summary – Enforcement Matter – Case No. 51489**

**City of Donna**

**RN102080751**

**Docket No. 2015-1657-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for 5-day biochemical oxygen demand, ammonia nitrogen, and *Escherichia coli* [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010504001, Interim I and II, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010504001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Steven Van Landingham, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5717; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Irene Muñoz, Mayor, City of Donna, 307 South 12th Street, Donna, Texas 78537

**Respondent's Attorney:** N/A



## Penalty Calculation Worksheet (PCW)

<b>DATES</b>	<b>Assigned</b>	26-Oct-2015	<b>Screening</b>	28-Oct-2015	<b>EPA Due</b>	5-Sep-2015
	<b>PCW</b>	18-Nov-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Donna
<b>Reg. Ent. Ref. No.</b>	RN102080751
<b>Facility/Site Region</b>	15-Harlingen
<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	51489	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-1657-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steven Van Landingham
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$11,250

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **12.0%** Adjustment **Subtotals 2, 3, & 7** \$1,350

Notes: Enhancement for three months of self-reported effluent violations, and reduction for one notice of intent to audit and one disclosure of violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$0**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$949  
Estimated Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$12,600**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$12,600**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$12,600**DEFERRAL** **20.0%** Reduction Adjustment -\$2,520

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$10,080

Screening Date 28-Oct-2015

Docket No. 2015-1657-MWD-E

PCW

Respondent City of Donna

Policy Revision 4 (April 2014)

Case ID No. 51489

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102080751

Media [Statute] Water Quality

Enf. Coordinator Steven Van Landingham

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for three months of self-reported effluent violations, and reduction for one notice of intent to audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 12%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 12%

Screening Date 28-Oct-2015

Docket No. 2015-1657-MWD-E

PCW

Respondent City of Donna

Policy Revision 4 (April 2014)

Case ID No. 51489

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102080751

Media [Statute] Water Quality

Enf. Coordinator Steven Van Landingham

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010504001, Interim I and II, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on July 21, 2015, and shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. *Escherichia coli* was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 3

119 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$949

Violation Final Penalty Total \$12,600

This violation Final Assessed Penalty (adjusted for limits) \$12,600

# Economic Benefit Worksheet

**Respondent** City of Donna  
**Case ID No.** 51489  
**Reg. Ent. Reference No.** RN102080751  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Jun-2014	23-May-2016	1.90	\$949	n/a	\$949

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$949

**City of Donna**  
**Docket No. 2015-1657-MWD-E**  
**TPDES Permit No. WQ0010504001**

**Violation Table**

	<b>Interim I</b>		<b>Interim II</b>			
	<b>Biochemical Oxygen Demand (5-day)</b>		<b><i>Escherichi coli</i></b>	<b>Ammonia Nitrogen</b>		
	Daily Average Conc.	Daily Average Loading	Daily Maximum Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Average Loading
<b>Month/Year</b>	Limit = 20 mg/L	Limit = 300 lbs/day	Limit = 394 cfu	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 45 lbs/day
June 2014	26	301	N/A	N/A	N/A	N/A
February 2015	N/A	N/A	397	6	14	83
March 2015	N/A	N/A	c	4.3	34.9	c
April 2015	N/A	N/A	c	3.7	32.1	c

c = compliant

Conc. = concentration

mg/L = milligrams per liter

cfu = colony forming units per 100 milliliters

lbs/day = pounds per day

N/A = not applicable





The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN600737886, RN102080751, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN600737886, City of Donna

**Classification:** SATISFACTORY

**Rating:** 0.40

**Regulated Entity:** RN102080751, CITY OF DONNA  
WASTEWATER TREATMENT PLANT

**Classification:** SATISFACTORY

**Rating:** 0.40

**Complexity Points:** 5

**Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** IMMEDIATELY WEST OF FARM-TO-MARKET ROAD 493 AND APPROXIMATELY 1.5 MILES SOUTH OF UNITED STATES HIGHWAY 83 (BUSINESS ROUTE) IN HIDALGO COUNTY, TEXAS

**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010504001

**WASTEWATER EPA ID** TX0132802

**WASTEWATER LICENSING LICENSE** WQ0010504001

**Compliance History Period:** September 01, 2010 to August 31, 2015

**Rating Year:** 2015

**Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** October 27, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 27, 2010 to October 27, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Steven Van Landingham

**Phone:** (512) 239-5717

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	April 23, 2012	(1012388)
Item 2	May 21, 2012	(1018753)
Item 3	June 21, 2012	(1026489)
Item 4	July 16, 2012	(1033820)
Item 5	September 17, 2012	(1049359)
Item 6	October 18, 2012	(1071158)
Item 7	November 20, 2012	(1071160)
Item 8	December 28, 2012	(1071161)
Item 9	January 22, 2013	(1083871)
Item 10	March 20, 2013	(1091663)
Item 11	April 19, 2013	(1109061)
Item 12	April 22, 2013	(1098017)
Item 13	June 20, 2013	(1119578)
Item 14	July 24, 2013	(1119579)
Item 15	August 20, 2013	(1127320)
Item 16	October 18, 2013	(1137611)
Item 17	November 22, 2013	(1143028)

Item 18	January 21, 2014	(1155539)
Item 19	February 18, 2014	(1162879)
Item 20	March 18, 2014	(1169452)
Item 21	April 22, 2014	(1182917)
Item 22	May 20, 2014	(1182918)
Item 23	June 23, 2014	(1189780)
Item 24	July 20, 2014	(1201870)
Item 25	August 26, 2014	(1201871)
Item 26	September 22, 2014	(1208070)
Item 27	October 23, 2014	(1214480)
Item 28	November 25, 2014	(1220704)
Item 29	December 22, 2014	(1226557)
Item 30	January 21, 2015	(1233825)
Item 31	February 20, 2015	(1244530)
Item 32	June 19, 2015	(1271663)
Item 33	July 16, 2015	(1271662)
Item 34	July 23, 2015	(1279215)
Item 35	August 21, 2015	(1285436)

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 02/28/2015 (1250925) CN600737886  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 03/31/2015 (1257819) CN600737886  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 04/30/2015 (1264586) CN600737886  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

#### **F. Environmental audits:**

Notice of Intent Date: 01/25/2012 (989719)  
Disclosure Date: 07/03/2012  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.9(d)  
Rqmt Prov: PERMIT Item 3  
Description: Failure to monitor QA/QC requirements for pH accuracy, as required by TPDES Permit No. WQ10504001.  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.9(a)  
Description: Failure to follow the self-monitoring schedule for collecting effluent quality composite samples.

#### **G. Type of environmental management systems (EMSs):**

N/A

#### **H. Voluntary on-site compliance assessment dates:**

N/A

#### **I. Participation in a voluntary pollution reduction program:**

N/A

#### **J. Early compliance:**

N/A

#### **Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DONNA  
RN102080751**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2015-1657-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Donna ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located immediately west of Farm-to-Market Road 493 and approximately 1.5 miles south of United States Highway 83 (Business Route) in Hidalgo County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 24, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Six Hundred Dollars (\$12,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Eighty Dollars

(\$10,080) of the administrative penalty and Two Thousand Five Hundred Twenty Dollars (\$2,520) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010504001, Interim I and II, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 21, 2015, and shown in the violation table below.

Violation Table						
	Interim I		Interim II			
	Biochemical Oxygen Demand (5-day)		<i>Escherichi coli</i>	Ammonia Nitrogen		
	Daily Average Conc.	Daily Average Loading	Daily Maximum Conc.	Daily Average Conc.	Daily Maximum Conc.	Daily Average Loading
Month/ Year	Limit = 20 mg/L	Limit = 300 lbs/day	Limit = 394 cfu	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 45 lbs/day
June 2014	26	301	N/A	N/A	N/A	N/A
February 2015	N/A	N/A	397	6	14	83
March 2015	N/A	N/A	c	4.3	34.9	c
April 2015	N/A	N/A	c	3.7	32.1	c

c = compliant

Conc. = concentration

mg/L = milligrams per liter

cfu = colony forming units per 100 milliliters

lbs/day = pounds per day

N/A = not applicable

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Donna, Docket No. 2015-1657-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010504001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most

current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language further ordered that the Respondent shall undertake the following technical requirements:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

*Ronn Moniva*  
For the Executive Director

8/19/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Irene Muñoz*  
Signature

1/15/2016  
Date

Irene Muñoz  
Name (Printed or typed)  
Authorized Representative of  
City of Donna

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.